IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT :

THE HONOURABLE MR. JUSTICE R.BASANT

TUESDAY, THE 20TH FEBRUARY 2007 / 1ST PHALGUNA 1928

Crl.MC.No. 422 of 2007()

CP.105/2006 of JUDL.MAGISTRATE OF FIRST CLASS COURT, RANNI
CR.NO.15/2000 OF RANNI EXCISE RANGE

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PETITIONER/ACCUSED NO.3:

VARGHESE SACHARIA, S/O.SACHARIA,
PUTHUPARAMBIL HOUSE, KOZHENCHERRY,
PATHANAMTHITTA DISTRICT.

BY ADV. SRI.C.C.THOMAS

RESPONDENTS/COMPLAINANT:

STATE OF KERALA REPRESENTED BY EXCISE INSPECTOR,
EXCISE RANGE OFFICE, RANNI, PATHANAMTHITTA DISTRICT,
BY PUBLIC PROSECUTOR, HIGH COURT OF KERALA, ERNAKULAM

BY PUBLIC PROSECUTOR SRI.GIKKU JACOB

THIS CRIMINAL MISC. CASE HAVING COME UP FOR ADMISSION ON 20/02/2007, THE COURT ON THE SAME DAY PASSED THE FOLLOWING:

R.BASANT, J

Crl.M.C.No.422 of 2007

Dated this the 20th day of February 2007

O R D E R

Against the petitioner who is the third accused, allegations were raised initially under Section 56(b) of the Kerala Abkari Act. The crux of the allegation is that higher percentage of ethyl alcohol was found to be present in the toddy offered for sale in the toddy shop of which he is the licensee. There is an allegation that arrack was mixed in the toddy. Altogether there were three accused. Other two accused were released on bail at the stage of investigation, it is submitted. The petitioner was not available for arrest. Investigation is now complete. Final report has already been filed. In the final report, allegations are raised interalia under Sections 8, 55(a) and 56(b) of the Kerala Abkari Act. The petitioner has not entered appearance so far. Warrant of arrest issued by the learned Magistrate is chasing him. He has, in these circumstances, come to this court with this petition under Section 482 Cr.P.C with the prayer that the proceedings against him may be quashed. Additionally and alternatively, it is prayed that the learned Magistrate may be directed to release the petitioner on bail when he appears and applies for bail.

2. I have carefully considered the allegations raised against the petitioner and his contentions in defence of those allegations. I shall scrupulously avoid any detailed discussion or expression of opinion on the acceptability of the contentions. I am certainly of the opinion that the petitioner must and can raise all these contentions to claim discharge at the appropriate stage under Section 227/228 Cr.P.C. Suffice it to say that I do not find any reasons which can persuade this court to invoke its extraordinary inherent jurisdiction available under Section 482 Cr.P.C.

3. Coming to the question of grant of bail, it is for the petitioner to appear before the learned Magistrate and claim bail. I find absolutely no reason to assume that the learned Magistrate would not consider the application for bail to be filed by the petitioner on merits, in accordance with law and expeditiously. Every court must do the same. No special or specific directions appear to be necessary. Sufficient general directions have been issued in Alice George vs. Deputy Superintendent of Police [2003(1)KLT 339].

4. In the result, this Crl.M.C is dismissed but with the specific observation that if the petitioner surrenders before the learned Magistrate and applies for bail, after giving sufficient prior notice to the Prosecutor in charge of the case, the learned Magistrate must proceed to pass appropriate orders on merits, in accordance with law and expeditiously - on the date of surrender itself.

Hand over copy of this order to the learned counsel for the petitioner.

(R.BASANT, JUDGE)

jsr

R.BASANT, J

C.R.R.P.No.

ORDER

21ST DAY OF JULY 2006